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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,666	05/18/2006	Uwe Kassner	3615	5110
7590 Striker, Striker & Stenby 103 East Neck Road Huntington, NY 11743		08/27/2007	EXAMINER CASTRO, ARNOLD	
			ART UNIT 3747	PAPER NUMBER
			MAIL DATE 08/27/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/579,666

Applicant(s)

KASSNER ET AL.

Examiner

Arnold Castro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 May 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/18/2006</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the method or apparatus as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings boxes contain only numbers which reference steps or means in the detailed specification. However, by viewing the drawings in themselves one of ordinary

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skill in the art cannot determine the meaning of these numbers to ascertain the gist of the invention as claimed. Applicant needs to put wording in the boxes which describes the step or means.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

4. The drawings contain only numbers and therefore, do not described in the invention in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s) at the time the application was filed, had possession of the claimed invention.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application

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by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1, 4, 7, 9, and 12 rejected under 35 U.S.C. 102(e) as being anticipated by Dolker U.S. Patent 7,207,305 B2.

Dolker describes a device for controlling an internal combustion engine upon starting, having a detection means which detects operating parameters of the engine (cooling water temperature), characterized in that a calculation means taking the detected operating parameters before the start of the engine into account, specifies a starting strategy; (column 2, lines 22-33) that the calculation means , as a function of the specified starting strategy (eg. Ramp chosen), defines control parameters for controlling a runup to engine operating speed; that a control means monitors the runup to engine operating speed; and that the control means in the event of a runup to engine operating speed that deviates from the starting strategy, adapts the control parameters accordingly. See figure 6 lines couolumn 5, 20-40.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1-4, 7-12, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kojima et al. (US/6,981,481 B2) in view of Weiss (US/6,615,785 B2).

Kojima et al. discloses and engine a device and method for controlling an internal combustion engine upon starting, having a detection means which detects operating parameters of the engine (residual pressure, water temperature, etc.), characterized in that a calculation means taking the detected operating parameters before the start of the engine into account, specifies a starting strategy; (to start via injection or starter). The detection means detects a piston position of at least one cylinder; and that a calculation means specifies a starting strategy, taking into account the at least one piston position detected before the start of the engine.

Weiss discloses a control system wherein the during runup from starting the control means defines control parameters for controlling a runup to engine operating

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speed; that a control means monitors the runup to engine operating speed; and that the control means in the event of a runup to engine operating speed that deviates from the starting strategy, adapts the control parameters accordingly. Wherein, in that the starting strategy defines control parameters, which trigger a starter or starter-generator variably over time in its performance and/or rpm.

At the time of invention it would have been obvious to a person having ordinary skill in the art. To combine the control routines of Kojima et al. and Weiss. Motivation would have been to improve emissions and effective heating of catalytic converter when starting engine.

10. Claims 5,13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kojima et al. (US/6,981,481 B2) in view of Weiss (US/6,615,785 B2) as applied above and further in view of Kolmanovsky et al. US 7,174,252 B1.

Kolmanovsky et al. discloses an starting system wherein the valves are variably controlled to reduce emissions.

At the time of invention it would have been obvious to a person having ordinary skill in the art. To combine the control routines of Kolmanovsky et al.. Motivation would have been to improve emissions and effective heating of catalytic converter when starting engine.

11. Claims 5,13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kojima et al. (US/6,981,481 B2) in view of Weiss (US/6,615,785 B2) as applied above and further in view of Kolmanovsky et al. US 7,174,252 B1.

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Kolmanovsky et al. discloses an starting system wherein the valves are variably controlled to reduce emissions.

At the time of invention it would have been obvious to a person having ordinary skill in the art. To combine the control routines of Kolmanovsky et al.. Motivation would have been to improve emissions and effective heating of catalytic converter when starting engine.

12. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kojima et al. (US/6,981,481 B2) in view of Weiss (US/6,615,785 B2) as applied above and further in view of Sieber et al. 6,910,454 B2.

Sieber et al. discloses a starting system wherein variable compression ratio is adjusted during starting to reduce emissions.

At the time of invention it would have been obvious to a person having ordinary skill in the art. To combine the control routines of Sieber et al.. Motivation would have been to improve emissions and effective heating of catalytic converter when starting engine.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arnold Castro whose telephone number is (571) 272-4839. The examiner can normally be reached on MTWTF 3pm-11pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen K. Cronin can be reached on 571-272-4536. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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AC


STEPHEN K. CRONIN
SUPERVISORY PATENT EXAMINER